IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.813 of 2006

Arunachalam ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 00

2.The District Magistrate and
District Collector
Perambalur Distirct,
Perambalur. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of detention in Cr.M.P.No.13 of 2006 dated 30.03.2006 on the file of the second respondent herein, quash the same as illegal and direct the respondents to produce the detenu Karuppusamy @ Karuppaiah before this Court, now confined in Central Prison, Trichirapalli and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu
For Respondents: Mr.M.Babu Muthu Meeran
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the friend of the detenu by name Karuppusami @ Karuppaiah, who was detained as a 'Goonda' as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned

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detention order dated 30.03.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 24.04.2006 was received by the Government on 09.05.2006 and the remarks were called for on 09.05.2006. The representation of the detenu was received from the Government by the Collectorate on 30.05.2006 and the parawar remarks were called for from the Sponsoring authority on the same day i.e. on 30.05.2006 and the remarks were received from the sponsoring authority on 02.06.2006 and the report was sent to the Government on 08.06.2006 and the remarks were received by the Government on 12.06.2006 and thereafter, the file was submitted on 15.06.2006 and the same was dealt with by the Under Secretary on the same day i.e. on 15.06.2006 and by the Deputy Secretary on 16.06.2006 and finally, the Minister for Prohibition and Excise passed orders on 19.06.2006. The rejection letter was prepared on 23.06.2006 and the same of sent to the detenu on the same day i.e. on 23.06.2006 and the same was served to him on 01.07.2006. As rightly pointed out by the learned counsel for the petitioner, though the remarks were called for on 09.05.2006, it is not clear how the said communication was received by the Collectorate only on 30.05.2006. Again, though remarks were received from the sponsoring authority on 02.06.2006, the report was sent to the Government only on 08.06.2006 and there is no explanation at all for sending the report to the Government belatedly. Here again, though the Minister for Prohibition and Excise passed an order on 19.06.2006, there is no explanation at all for taking time for preparation of rejection letter till 23.06.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the three spells of delay, viz., between 09.05.2006 and 30.05.2006, 02.06.2006 and 08.06.2006 and 19.06.2006 and 23.06.2006, are on the higher side and in the absence of proper explanation by the persons concerned, the delay has prejudiced the detenu in considering his representation. On this ground, we quash the impugned order of detention.

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4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector,Perambalur District, Perambalur.

3. The Superintendent, Central Prison, Tiruchirapalli.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.813 of 2006

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